

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

LEONARD HOWZE, JR.,	:	CIVIL ACTION NO. 1:09-CV-1327
and DIONNE L. STREET,	:	
as parents and natural guardians	:	(Judge Conner)
of LDH, their son, a minor,	:	
	:	
Plaintiffs	:	
	:	
v.	:	
	:	
MARC DAVID MOULE, Individually	:	
and in his official capacity as an	:	
employee and agent of the City of	:	
Harrisburg, CHARLES KELLER,	:	
Individually and in his official	:	
capacity as an employee and agent of	:	
the City of Harrisburg, STEPHEN R.	:	
REED, Individually and in his	:	
official capacity as an employee and	:	
agent of the City of Harrisburg, and	:	
CITY OF HARRISBURG,	:	
	:	
Defendants	:	

ORDER

AND NOW, this 8th day of February, 2010, upon consideration of the motions (Docs. 25, 27) for partial dismissal of plaintiffs' complaint, and upon further consideration of the report of the magistrate judge (Doc. 34), recommending that the motions (Docs. 25, 27) be granted, and, following an independent review of the record, it appearing that plaintiffs concur in the dismissal of Counts 6-10, 12-14, 17-19, and those parts of Counts 15 and 20 against defendants City of Harrisburg, Reed, and Keller, from the complaint, and that the magistrate judge recommends dismissal of the same portions of plaintiffs' complaint, and it further appearing that neither party has objected to the magistrate

judge's report and recommendation,¹ and that there is no clear error on the face of the record,² see Nara v. Frank, 488 F.3d 187, 194 (3d Cir. 2007) (explaining that "failing to timely object to [a report and recommendation] in a civil proceeding may result in forfeiture of *de novo* review at the district court level"), it is hereby ORDERED that:

1. The report of the magistrate judge (Doc. 34) is ADOPTED.
2. The following portions of the complaint are DISMISSED: Counts 6-10, 12-14, 17-19, and those parts of Counts 15 and 20 against defendants City of Harrisburg, Reed, and Keller
3. The case is REMANDED to the magistrate judge for further proceedings.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge

¹ Objections were due by January 29, 2010. As of the date of this order, none have been filed.

² When parties fail to file timely objections to a magistrate judge's report and recommendation, the Federal Magistrates Act does not require a district court to review the report before accepting it. Thomas v. Arn, 474 U.S. 140, 149 (1985). As a matter of good practice, however, the Third Circuit expects courts to "afford some level of review to dispositive legal issues raised by the report." Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987). The advisory committee notes to Rule 72(b) of the Federal Rules of Civil Procedure indicate that "[w]hen no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." FED. R. CIV. P. 72(b), advisory committee notes; see also Henderson, 812 F.2d at 878-79 (stating that "the failure of a party to object to a magistrate's legal conclusions may result in the loss of the right to de novo review in the district court"); Tice v. Wilson, 425 F. Supp. 2d 676, 680 (W.D. Pa. 2006) (holding that the court's review is conducted under the "plain error" standard); Cruz v. Chater, 990 F. Supp. 375-78 (M.D. Pa. 1998) (holding that the court's review is limited to ascertaining whether there is "clear error on the face of the record"); Oldrati v. Apfel, 33 F. Supp. 2d 397, 399 (E.D. Pa. 1998) (holding that the court will review the report and recommendation for "clear error"). The court has reviewed the magistrate judge's report and recommendation in accordance with this Third Circuit directive.